

**COMMITTEE ON RULES OF PROCEDURE
IN DOMESTIC RELATIONS CASES
Draft Minutes**

Friday, August 29, 2003
10:00 a.m. – 4:00 p.m.
ARIZONA COURTS BUILDING
Conference Room 345 A/B
1501 W. Washington, Phoenix, Arizona
Teleconference #: 602-542-9003

Members Present:

Hon. Mark Armstrong, Chair
Annette T. Burns, Esq.
Hon. Norm Davis
Annette Everlove, Esq.
Deborah Fine, Esq. (telephonic)
Bridget Humphrey, Esq.
Hon. Michael K. Jeanes
Phil Knox, Esq.
Hon. Dale Nielson
Richard Scholz, Esq.
Robert Schwartz, Esq.
Debra Tanner, Esq.
Hon. Nanette Warner
Brian W. Yee, Ph.D.

Members Not Present:

Janet Metcalf, Esq.
Hon. Monica Stauffer

Staff Present:

Konnie K. Young
Karen Kretschman
Isabel Gillett

Quorum: Yes

1. Meeting Called to Order: Judge Armstrong

Judge Armstrong called the meeting to order and welcomed everyone. Judge Armstrong directed the Committee to review the revised membership and meeting dates lists and briefly discussed the new materials distributed, including the following:

- Agenda
- Table of Contents
- Membership List
- Meeting Dates
- Draft Minutes for August 8, 2003
- *Goals and Mission Statement*
- Rhode Island Rules
- Texas Rules Table of Contents
- Judge Armstrong's Article, *Does This New Rule Apply to my Family Court Cases* (on 16G)
- Volunteer Lawyer's Program Article
- *Rules of Procedure in Domestic Relations Cases Working Outline*

2. Approval of Minutes

**Motion: Approve minutes for the August 8, 2003 meeting.
Seconded and passed unanimously.**

3. Presentation: Fran Johansen, Esq. (State Bar of Arizona)

Fran Johansen presented on two topics: *Unauthorized Practice of Law* and *Limited Scope Representation*. Fran provided additional handouts to the Committee including the following:

- PowerPoint presentation materials
- Unauthorized Practice of Law
- Limited Scope Presentation
- Limited Scope Presentation Addendum of Miscellany
- Opinion No. 99-07
- Opinion No. 98-08
- Opinion No. 93-01
- Opinion No. 91-03

Fran urged the Committee to draft rules regarding limited scope representation. Following the presentation, Fran addressed questions asked by committee members.

During her presentation, Fran had mentioned the Iowa Code, and specifically, the inclusion of the "Closing the Record" topic for Iowa Domestic Relations cases. The Committee began discussing the possibility of having sealed or confidential documents in Arizona DR cases, similar to the provisions for closing the record in Iowa's Code.

(Break for Lunch)

4. Sealed Documents/ Closing the Record Discussion

Discussion about sealed documents for DR cases in Arizona resumed, and Fran Johansen provided the committee with a copy of the *Iowa Code Section 598.26 – Record – impounding – violation indictable*. Some Committee members raised possible logistical and identity theft issues. However, when Judge Armstrong proposed that the Committee explore the possibility of keeping records closed by rule or statute and asked if anyone on the Committee would be opposed, no one on the Committee objected to keeping domestic relations case records closed (“confidential”), until service or other specific events.

5. Goals and Mission Statement

Judge Armstrong directed the Committee to review the *Goals and Mission Statement* in their packets of new materials. Judge Armstrong indicated that this list was the culmination of the Committee’s discussion on these matters at the August 8, 2003 meeting. Judge Warner said that they were all discussed as suggested, but that she did not think there was an agreement among everybody about the goals. She felt that some of the goals were conflicting. She thought it might be appropriate to put a notation on the list that there was not universal agreement that all these goals would be attainable. Judge Armstrong agreed and suggested a parenthetical statement that these were goals suggested by individual committee members, and there is not necessarily a consensus regarding any particular goal.

6. Relevant Arizona Rules of Civil Procedure (ARCP)

Judge Armstrong indicated that he has been working on getting an electronic version of the *ARCP* to assist the Committee as they work with the *ARCP* rules relevant to domestic relations cases. He said that once we have it, we will circulate it to everyone and have it in a very manipulative document. He also said he had not gone through them and parse out those that are inapplicable. He was not sure it would be necessary because Judge Davis had created an outline that looks at all areas of the family law process, but also interfaces it with the *ARCP*. Instead the Committee will have the Word document that they will be able to use to fashion rules once engaged in the actual writing of the rules. This document should be finished within a week, at which time it will be available to the Committee.

7. Framework/ Outline Subcommittee Report

Judge Norm Davis directed the Committee to turn to the handout entitled *Outline* (following Tab 10) in their binders. Judge Davis presented the Outline Subcommittee’s product to the Committee and asked for feedback.

During the discussion about the outline, Judge Armstrong suggested adding several topics under Section IV; the first being referrals to CPS and the second Orders of Protections. Then

just to make sure that the Committee thinks about them as they go through the process, on page 3 in Section XI, Applicability of other Rules may include in parenthesis (i.e. rules of evidence, some may call them local rules). He suggested that the Committee may not want to touch the rules of evidence, but that the local rules need to be addressed. Judge Armstrong also recommended that the Committee should look at all rules and cited *ARCP 5(c)(2)* as an example of a rule that would be easy to skip, but should be included. Judge Armstrong stated that the concept that the family court rules as a finished product would stand alone does not preclude including other *ARCP* rules by reference.

Other topics suggested by the Committee to consider for inclusion in the Family Court Rules drafts follow:

- 1) Appearance of Children in Proceedings—Section XI
- 2) Add Confidentiality in Section I.
- 3) Public Access to Proceedings-(add to section XI)
- 4) Applicability of other Rules
- 5) Evidence and Exhibits
- 6) Transition Rules
- 7) Scope and Purpose of the Rules
- 8) Goals of the Family Court in Family Cases
- 9) Definition Section
- 10) Scope and Responsibility of Family Law Divisions
- 11) General Administration
- 12) Motions to Set Trial
- 13) Enforcement of Judgments

Judge Armstrong also suggested adding a Section XII and entitling it *Sanctions and Contempt* (for now), so it does not get forgotten.

The Committee also discussed various states' rules to use as examples during the drafting stages of Arizona Family Court Rules. Judge Armstrong suggested that Hawaii's rules (included in the binder, Tab "Hawaii") are closer to what the Committee is setting out to accomplish with Arizona Family Court Rules. The Florida model was also suggested.

8. Formation of Workgroups

Next Judge Armstrong initiated a discussion about how to best break up the workload for the Committee and draft the proposed rules. The Committee discussed different options and the advantages of including interested people who are not on the Committee as workgroup members. Konnie Young provided the Committee with a list of potential workgroup members – original applicants not selected for the Committee but who had confirmed their interest in contributing as workgroup members.

After further discussion, the following workgroups were formed to work on discussing and initial drafting of various sections of the Outline.

WORKGROUPS FORMED 08-29-03:

WORKGROUP #1—Sections I & II

CHAIR: Bridget Humphrey, Esq.
Hon. Nanette Warner
Hon. Dale Nielsen
Hon. Michael Jeanes
Dean Christoffel, Esq.*

WORKGROUP # 2 - Section XI

CHAIR: Hon. Norm Davis
Annette Everlove, Esq.
Phil Knox, Esq.
Debra Tanner, Esq.
Hon. Julie Roth*

WORKGROUP #3—Section III

CHAIR: Annette Burns, Esq.
Richard Scholz, Esq.
Robert Schwartz, Esq.
Hon. Eve Parks*
Hon. David Ostapuk*

Committee members included on these workgroups agreed to stay after adjournment of today's meeting to exchange contact information, coordinate schedules for meeting dates, and look at other preliminary workgroup matters.

9. Next Meeting: Konnie Young

The next meeting will be September 26, 2003, at the Arizona Courts Building, 1501 W. Washington Street, Conference Room 230.

Members were reminded that they were given a revised meeting schedule in their new materials today.

10. Call to the Public:

There were no public members in attendance.

11. Adjournment: Judge Armstrong

The meeting adjourned at 2:40 pm.

* Workgroup member who is not also a member of the Committee on Rules of Procedure in Domestic Relations Cases